



**Legislative Bulletin.....October 28, 2003**

**Contents:**

- H.R. 3232** - To reauthorize certain school lunch and child nutrition programs for fiscal year 2004
- H.Res. 378**—Recognizing Independent 529 Plan for launching a prepaid tuition plan that will benefit our Nation’s families who want to send their children to private colleges and universities
- H.Res. 395**—Recognizing the importance of chemistry to our everyday lives and supporting the goals and ideals of National Chemistry Week
- H.Con.Res. 279**—Recognizing the significance of the anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program, and reaffirming the commitment to support the use of science in governmental decision making through such Program
- S. 926**—Federal Employee Student Loan Assistance Act
- H.R. 3175**—Richard D. Watkins Post Office Building Designation Act
- H.R. 3234**—Ben R. Gerow Post Office Building Designation Act
- H.R. 2744**—David Bybee Post Office Building Designation Act
- H.Con.Res. 291** - Expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993
- S. 470** - A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.
- H.Con.Res. 268** - Expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic highly migratory species, including marlin, adopted by the International Commission for the Conservation of Atlantic Tunas and that are threatening the continued viability of United States commercial and recreational fisheries
- H.R. 3249**—To extend the term of the Forest Counties Payments Committee
- H.R. 1616** - Martin Luther King, Junior, National Historic Site Land Exchange Act
- H.Res. 409**—Repudiating the recent anti-Semitic sentiments expressed by Dr. Mahathir Mohamad, the outgoing prime minister of Malaysia, which makes peace in the Middle East and around the world more elusive
- H.J.Res. 63**—Compact of Free Association Amendments Act
- H.R. 2359**—Basic Pilot Extension Act of 2003
- H.Res. 377** -- Providing for recommittal of the conference report to accompany the bill (H.R. 2115)

**Rolled Votes:**

- Markey Motion to Instruct Conferees on H.R. 6**—the Energy Policy Act of 2003
- Brown (OH) Motion to Instruct Conferees on H.R. 1**—Medicare Prescription Drug Modernization Act of 2003
- Woolsey Motion to Instruct Conferees on H.R. 1308**—the All-American Tax Relief Act

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**H.R. 3232—To reauthorize certain school lunch and child nutrition programs through March 31, 2004 (Castle)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, October 28, 2003, under a motion to suspend the rules and pass the bill *as amended*. According to the sponsor’s

office, the bill as introduced will be modified on the floor to extend the program for 6 months, rather than the 1-year extension in the introduced version.

**Summary:** H.R. 3232 reauthorizes for six months (through March 31, 2004) portions of the Richard B. Russell National School Lunch Act, that otherwise expired on October 1, 2003.

The Richard B. Russell National School Lunch Act provisions reauthorized are

- the exclusion of certain military housing allowances (42 U.S.C. 1758(b)(7))
- the child and adult care food program (42 U.S.C. 1766(a)(2)(B)(i))
- the funding maintenance of commodity distribution (42 U.S.C. 1762a(a))
- the summer food service program for children (42 U.S.C. 1761(q) & (42 U.S.C. 1769(f)(2))

The bill as introduced also reauthorizes for a year the reimbursement to states under the commodity distribution programs. This is likely to be modified to a six-month extension under the amended version up today.

**Additional Information:** According to the Committee, this legislation would allow children of Armed Services members living in privatized military housing to continue receiving free or reduced-price meals at school if they meet eligibility requirements; for-profit child care centers to participate in the Child and Adult Care Food Program; and schools, churches, and community organizations to operate Summer Food Service Program sites. Furthermore, the bill ensures that until a child nutrition reauthorization bill is signed into law, commodity distribution to schools will be maintained at sufficient levels and that schools will have funds available to replace commodities that pose a potential health or safety risk to students.

**Committee Action:** H.R. 3232 was introduced on October 2, 2003, and referred to the Committee on Education and the Workforce. The Committee did not consider the bill.

**Cost to Taxpayers:** A CBO cost estimate is unavailable. Federal child nutrition programs cost \$12 billion per year. According to documents from the Congressional Research Service (CRS), **it appears that H.R. 3232 reauthorizes programs that will cost at least \$3.159 billion in FY04.**

According to FY04 appropriations passed by the House and Senate (though still in conference and not yet signed into law)

- FY04 funding for the child and adult care food program = \$2.019 billion
- FY03 funding for the funding maintenance of commodity distribution = \$831.3 million
- FY03 funding for the summer food service program for children = \$308.7 million
- (The cost of the exclusion of certain military housing allowances could not be determined)

(Source: CRS Child Nutrition and WIC Programs, PDF pg. 51 <http://www.congress.gov/erp/rl/pdf/RL31577.pdf>)

*If the bill is considered as amended for only a six-month reauthorization, the bill would likely authorize expenditures of at least \$1.58 billion.*

**Does the Bill Create New Federal Programs or Rules?:** The bill as reported would reauthorize for an additional six months, programs expiring under current law.

**Constitutional Authority:** A committee report citing constitutional authority is not available.

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**H.Res. 378—Recognizing Independent 529 Plan for launching a prepaid tuition plan that will benefit our Nation’s families who want to send their children to private colleges and universities (Granger)**

**Order of Business:** The resolution is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Res. 378 resolves that the House:

“(1) congratulates Independent 529 Plan on its launch of a prepaid tuition plan that will benefit our Nation's families that want to send their children to private colleges and universities; and

“(2) directs the Clerk of the House of Representatives to transmit to Independent 529 Plan an enrolled copy of this resolution.”

**Additional Background:** Independent 529 Plan is the first national prepaid tuition program that enables families to save for private higher education. According to the resolution, “more than 200 private colleges and universities throughout the country have agreed to participate in Independent 529 Plan, which enables families to lower the cost of a private college or university education by locking in current tuition rates for future use at any of the participating private colleges and universities.”

Prepaid tuition programs have primarily been state-sponsored. Currently 20 states have prepaid tuition plans for state universities, according to the College Savings Plan Network. The earnings from prepaid tuition certificates (the difference between the locked-in tuition rate and the actual tuition rate at the time the certificate is used) are tax-exempt under Section 529 of the Tax Code.

**Committee Action:** H.Res. 378 was referred to the Committee on Education and the Workforce on September 24, 2003, but was not considered.

**Cost to Taxpayers:** The resolution authorizes no expenditure, although the Clerk of the House would incur a small expense in transmitting an enrolled copy of the resolution.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **H.Res. 395—Recognizing the importance of chemistry to our everyday lives and supporting the goals and ideals of National Chemistry Week (Holt)**

**Order of Business:** The resolution is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Res. 395 resolves that the House:

- “(1) recognizes that the important contributions of chemical scientists and engineers to technological progress and the health of many industries have created new jobs, boosted economic growth, and improved the Nation's health and standard of living;
- “(2) supports the goals and ideals of National Chemistry Week, as founded by the American Chemical Society; and
- “(3) encourages the people of the United States to observe National Chemistry Week with appropriate recognition, ceremonies, activities, and programs to demonstrate the importance of chemistry to our everyday lives.”

**Additional Background:** According to the resolution, “the American Chemical Society, the world's largest scientific society, founded National Chemistry Week in 1987 to educate the public about the role of chemistry in society and to enhance students' appreciation of the chemical sciences.” National Chemistry Week was celebrated during the week of October 19, 2003.

**Committee Action:** H.Res. 395 was referred to the Committee on Science on October 10, 2003. The Committee reported the resolution on October 16 by voice vote.

**Cost to Taxpayers:** The resolution authorizes no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **H.Con.Res. 279—Recognizing the significance of the anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program, and reaffirming the commitment to support the use of science in governmental decision making through such Program (Ehlers)**

**Order of Business:** The resolution is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Con.Res. 279 resolves that Congress:

“(1) recognizes the significance of the anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program;

“(2) acknowledges the value of 30 years of participation by the American Association for the Advancement of Science Congressional Science and Engineering Fellows; and

“(3) reaffirms its commitment to support the use of science in governmental decisionmaking through the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program.”

**Additional Background:** Under the American Association for the Advancement of Science (AAAS) Congressional Fellowship program, fellows spend one year on Capitol Hill working with Members of Congress or congressional committees as special assistants in legislative and policy areas requiring scientific and technical input. Two fellowships are offered each year, with an annual stipend of \$60,000. Approximately 30 other national science and engineering societies also sponsor Congressional Fellows.

In fiscal year 2001, the American Association for the Advancement of Science received more than \$10.7 million in government grants.

**Committee Action:** H.Con.Res. 279 was referred to the Committee on Science on September 15, 2003. The Committee reported the resolution on October 16 by voice vote.

**Cost to Taxpayers:** The resolution authorizes no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **S. 926—Federal Employee Student Loan Assistance Act (Sen. Voinovich)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** S. 926 would increase loan repayment limits under the Federal Student Loan Repayment Program. Under current law, federal employees are limited to \$6,000 in loan repayments per year and \$40,000 total. S. 926 would increase the annual limit to \$10,000 and the aggregate limit to \$60,000.

Identical legislation (H.R. 3080) has been introduced in the House but has not been considered by committee or by the full House. S. 926 passed the Senate on July 30 by unanimous consent.

**Additional Background:** The Federal Student Loan Repayment Program permits agencies to repay federally insured student loans as a recruitment or retention incentive for candidates or current employees of the agency. Loans eligible for repayment are as follows:

Federal Family Education Loans (FFEL)

- Subsidized Federal Stafford Loans
- Unsubsidized Federal Stafford Loans
- Federal PLUS Loans
- Federal Consolidation Loans

William D. Ford Direct Loan Program (Direct Loans)

- Direct Subsidized Stafford Loans
- Direct Unsubsidized Stafford Loans
- Direct PLUS Loans
- Direct Subsidized Consolidation Loans
- Direct Unsubsidized Consolidation Loans

Federal Perkins Loan Program

- National Defense Student Loans (made before July 1, 1972)
- National Direct Student Loans (made between July 1, 1972, and July 1, 1987)
- Perkins Loans (made after July 1, 1987)

Loans made or insured under the Public Health Service Act

- Loans for Disadvantaged Students (LDS)
- Primary Care Loans (PCL)
- Nursing Student Loans (NSL)
- Health Professions Student Loans (HPSL)
- Health Education Assistance Loans (HEAL)

The Office of Personnel Management's annual report to Congress declared that in fiscal year 2002, sixteen Federal agencies provided more than \$3.1 million dollars in student loan repayments for 690 Federal employees. In addition, eight other agencies reported that they have established an agency loan repayment plan and expect to make use of the program in the near future. Five additional agencies reported that they are in the process of establishing a program. The average payment in fiscal year 2002 was \$4,500.

**Committee Action:** S. 926 was referred to the Committee on Government Reform on September 3, 2003, but was not considered.

**Cost to Taxpayers:** The Congressional Budget Office estimates that S. 926 would cost less than \$500,000 per year, subject to appropriations.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is not available.

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**H.R. 3175—Richard D. Watkins Post Office Building Designation Act  
(Regula)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3175 would designate the U.S. Postal Service facility at 2650 Cleveland Avenue, NW in Canton, Ohio, as the “Richard D. Watkins Post Office Building.”

**Additional Background:** Richard D. Watkins is the current mayor of Canton, Ohio. For more background, visit this webpage:

<http://www.cityofcanton.com/citygov/mayorsoffice/profile.html>

**Committee Action:** On October 8, 2003, the Committee on Government Reform marked up and reported the bill to the full House by unanimous consent.

**Cost to Taxpayers:** The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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## **H.R. 3234—Ben R. Gerow Post Office Building Designation Act (*Hinchey*)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3234 would designate the U.S. Postal Service facility located at 14 Chestnut Street in Liberty, New York, as the “Ben R. Gerow Post Office Building.”

**Additional Background:** Ben R. Gerow was elected to a one-year term in the New York State Assembly in 1933 and was subsequently appointed Postmaster of the Liberty Post Office by President Franklin D. Roosevelt in 1934 (and served for 12 years).

**Committee Action:** The bill was referred to the Committee on Government Reform on October 2, 2003, but was never considered by the Committee.

**Cost to Taxpayers:** The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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## **H.R. 2744—David Bybee Post Office Building Designation Act (*Evans*)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 2744 would designate the U.S. Postal Service facility located at 514 17th Street in Moline, Illinois, as the “David Bybee Post Office Building.”

**Additional Background:** David Bybee was the vice president of the AFL-CIO for Illinois and a long-time Democrat activist.

**Committee Action:** On October 8, 2003, the Committee on Government Reform marked up and reported the bill to the full House by unanimous consent.

**Cost to Taxpayers:** The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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## **H.Con.Res. 291—Expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993 (*Hayes*)**

**Order of Business:** The resolution is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Con.Res. 291 has 7 findings regarding the 1993 U.S. Somalia operation, and resolves:

“That the Congress--

- “expresses deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993;
- “recognizes those members, many of whom were killed or severely wounded in direct combat, who acquitted themselves with honor and courage in battle to restore freedom to an oppressed nation;
- “honors the heroic service of the special operations forces assigned to Task Force Ranger and the soldiers of the 10th Mountain Division who supported them;
- “extends condolences to the families and friends of those killed and wounded in Operation Restore Hope; and
- “encourages the American people to remember the sacrifices of those who served.

**Additional Background:** According to the resolution’s findings, October 3, 2003, marked the 10th anniversary of the major battle in the United States operation to capture key members of the Somali National Alliance led by the terrorist warlord, Mohammed Farah Aidid, in Mogadishu, Somalia. Sixteen special operations personnel assigned to Task Force Ranger were killed (2 of whom, Master Sergeant Gary I. Gordon and Sergeant First Class Randall D. Shughart, were posthumously awarded the Medal of Honor for actions above and beyond the call of duty), and another 83 wounded during this firefight. In addition, two soldiers of the 10th Mountain Division were killed, and another 28 wounded, while supporting the special operations forces of Task Force Ranger. The findings note that “the valiant efforts of the soldiers, sailors, airmen, and Marines who were deployed in Operation Restore Hope significantly contributed to the war against terrorism and oppression.”

**Committee Action:** H.Con.Res. 291 was introduced on October 2, 2003 and referred to the House Committee on Armed Services. The Committee did not consider the resolution.

**Cost to Taxpayers:** None.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **S. 470 - A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr. (*Sen. Sarbanes*)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, October 28, 2003, under a motion to suspend the rules and pass the bill.

**Summary:** S. 470 would extend, until November 12, 2006, the authority to construct a memorial to Martin Luther King, Jr., on federal lands in Washington, D.C. The extension would give the Alpha Phi Alpha Fraternity, Inc. (the site's sponsor) an additional three years

to obtain the necessary funds and complete the project. Under current law, authority to construct the site will expire on November 12, 2003.

**Congressional Action:** The bill passed the Senate on July 17, 2003. The House passed an almost identical bill (H.R. 1209) by voice vote on September 23, 2003.

**Cost to Taxpayers:** According to CBO, because the prospective memorial is to be established with nonfederal funds, extending the authority to build it would not affect the federal budget.

**Does the Bill Create New Federal Programs or Rules?:** No, the bill extends current law for an additional three years.

**Constitutional Authority:** The House Resources Committee (in Report No. 108-203) found authority for H.R. 1209 under Article I, Section 8 of the Constitution (the Powers of Congress), but failed to cite a specific clause, and under Article IV, section 3 (rules and regulations for federal property). The Senate does not have a rule requiring constitutional authority statements.

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**H.Con.Res. 268 - Expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic highly migratory species, including marlin, adopted by the International Commission for the Conservation of Atlantic Tunas and that are threatening the continued viability of United States commercial and recreational fisheries (Rep. Saxton)**

**Order of Business:** The resolution is scheduled for consideration on Tuesday, October 28, 2003, under a motion to suspend the rules and pass the bill.

**Summary:** H.Con.Res. 268 has 5 findings and resolves “That it is the sense of Congress that:

“the President should—

- “direct the United States Commissioners to the International Commission for the Conservation of Atlantic Tunas ... to seek the establishment of effective conservation, management, and enforcement measures for the species under consideration at the 2003 Commission meeting, including for Atlantic marlin;
- “continue to encourage members and nonmembers that fish in the Commission regulatory area to make every effort to end illegal, unregulated, and unreported fishing, including any fishing that is not in conformance with relevant conservation recommendations adopted by the Commission, including those concerning Atlantic marlin landing reductions;

- “make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms to ensure conformance with conservation recommendations for all species under the Commission's management authority, including Atlantic marlin; and
- “continue to encourage the Commission to adopt conservation recommendations authorizing the use of enforceable measures to prevent those who fish in the Commission regulatory area from taking actions that would undermine the effectiveness of conservation and management recommendations of the Commission;

**Vessels** that fish without conforming to the Commission’s recommendations should be considered to be

- subject to the regulations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(4) and (5)); and (2) subject to the provisions of the Commission's rules that ensure conformance with Commission recommendations by member and nonmembers. In addition, “if any vessel fishes in such a manner or in such circumstances as would tend to diminish the effectiveness of international fishery conservation programs, then such action should be considered to be a fact that is certifiable under section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978 (a)(1)).”

**Additional Information:** According to the findings, some fishing vessels of members and nonmembers of the International Commission for the Conservation of Atlantic Tunas that fish in the Commission regulatory area have not conformed to Commission recommendations for some stocks, including those promoting the live release of Atlantic marlin. Repeated nonconformance by fishing vessels of members and nonmembers, according to the findings, “undermines the effectiveness of the Commission to establish, maintain, and enforce conservation measures, including rebuilding plans for over-fished species of fish that are under the Commission's management authority.” Failure of Commission members to enforce conservation and management measures, “threatens the continued viability of United States commercial and recreational fishing industries and undermines conservation goals.”

**Committee Action:** The resolution was introduced on July 25, 2003, and referred to the House Committee on Resources, which reported it to the full House by unanimous consent on September 24.

**Cost to Taxpayers:** None.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **H.R. 3249—To extend the term of the Forest Counties Payments Committee (Walden)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3249 would extend through September 30, 2007, the Forest Counties Payments Committee, which is an advisory committee that develops recommendations, “consistent with sustainable forestry,” for states and counties with federal lands to receive “adequate federal payments to be used for the benefit of public education and other public purposes.” [*Quotes are from the law in which the Committee was established: Public Law 106-291, Section 320.*] The Committee’s authorization terminated on October 11, 2003.

**Additional Background:** The Forest Counties Payments Committee is made up of the Forest Service Chief, the Bureau of Land Management Director, the Office of Management and Budget Director, two members from eligible counties (subject to geographic diversity requirements), and two members from school districts in eligible counties (subject to geographic diversity requirements).

Current law authorizes funding for the Committee as follows:

At the request of the Executive Director of the Advisory Committee, the Secretary of Agriculture shall provide funds from any account available to the Secretary, not to exceed \$200,000 in fiscal year 2001, for the work of the Advisory Committee necessary to meet the requirements of this section.

**Committee Action:** On October 3, 2003, the bill was referred jointly to the Committee on Agriculture and the Committee on Resources. Neither committee considered the bill.

**Cost to Taxpayers:** Although (as indicated above) the authorization for the Committee was capped at \$200,000 for fiscal year 2001, no cap for subsequent years exists, and H.R. 3249 is silent on it. It is safe to assume that the four-year extension of the Committee would cost taxpayers about or just under \$1 million.

**Does the Bill Create New Federal Programs or Rules?:** No, it extends an existing advisory committee.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 1616 - Martin Luther King, Junior, National Historic Site Land Exchange Act (*Rep. Lewis (GA)*)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, October 28, 2003, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 1616 would authorize the National Park Service to acquire land within the Martin Luther King, Junior, National Historic Site by exchange. The new authority would enable the NPS to exchange a small parcel of land owned by the agency for a parcel owned by

the city of Atlanta that is less than 0.5 acres. The newly acquired tract would be used for access to the historic site.

**Additional Information:** The Martin Luther King, Junior, National Historic Site, in Atlanta, Georgia was established by Congress (Public Law 96-438). According to the bill findings, the NPS owns a vacant lot “that has no historic significance.” The City of Atlanta “has expressed interest in acquiring this property to encourage commercial development along Edgewood Avenue.” The National Historic Site Visitor Center and Museum is land-locked and has no emergency ingress or egress, “making it virtually impossible for firefighting equipment to reach.” The acquisition of city-owned property would enable the NPS to establish accessible street access to the National Historic Site Visitor Center and Museum, and would allow the City to develop the exchanged property.

**Committee Action:** The bill was introduced on April 3, 2003, and referred to the House Committee on Resources, which reported it to the full House by unanimous consent on July 9.

**Cost to Taxpayers:** Based on information provided by the NPS, CBO estimates that it would cost the federal government about \$200,000 over the next fiscal year to complete the exchange and pave the new property, subject to appropriation. For this estimate, CBO assumes that the properties to be exchanged would be determined by NPS to be roughly equal in value.

**Does the Bill Create New Federal Programs or Rules?:** No.

**Constitutional Authority:** The Resources Committee (in Report 108-255) found authority under Article I, Section 8 (Powers of Congress) and Article IV, Section 3 (federal property), but fails to cite a specific clause.

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## **H.Res. 409—Repudiating the recent anti-Semitic sentiments expressed by Dr. Mahathir Mohamad, the outgoing prime minister of Malaysia, which makes peace in the Middle East and around the world more elusive (Blunt)**

**Order of Business:** The resolution is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Res. 409 would resolve that the House:

- “thoroughly repudiates the damaging rhetoric of the outgoing prime minister of Malaysia, Dr. Mahathir Mohamad, which embodies age-old stereotypes of Jewish global domination and grotesque anti-Semitism on an international scale;
- “reaffirms the rebuke made by President George W. Bush of Dr. Mahathir and his injurious sentiments on October 20, 2003, stating that the remarks ‘stand squarely against what I believe;’

- “calls upon other governments and international bodies, notably the European Union, to condemn these remarks as dangerous incitement; and
- “deplores the tacit acquiescence of those national representatives in attendance at the October 2003 Organization of the Islamic Conference as willing complicity in spreading a message of hate and incitement against Jews.”

**Additional Background:** The outgoing Prime Minister of Malaysia, Dr. Mahathir Mohamad, long known for his anti-Semitism, opened the 57-nation, October 2003 summit of the Organization of the Islamic Conference in Malaysia by characterizing Israel and Jews around the world as “the enemy” who “rule the world by proxy.” The resolution notes that among the 57 national representatives in attendance, none raised their voice in protest at the time and many applauded Dr. Mahathir's statements. Some foreign leaders, such as the Egyptian Foreign Minister, have explicitly supported the statements after the Conference ended.

To read Dr. Mahathir’s speech in its entirety, visit this webpage:

[http://www.adl.org/Anti\\_semitism/malaysian.asp](http://www.adl.org/Anti_semitism/malaysian.asp)

Note: At least 40 RSC Members are co-sponsors of this resolution.

**Committee Action:** On October 21, 2003, the resolution was referred to the Committee on International Relations but was not considered.

**Administration Position:** President Bush condemned the remarks of the Malaysian Prime Minister: <http://www.washtimes.com/national/20031020-103009-9615r.htm>

**Cost to Taxpayers:** The resolution would authorize no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No.

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## **H.J.Res. 63—Compact of Free Association Amendments Act (Leach)**

**Order of Business:** The joint resolution is scheduled to be considered on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Background:** For almost 40 years after World War II, the U.S. administered Micronesia and the Marshall Islands. On the Marshall Islands, the U.S. conducted both underwater and atmospheric nuclear tests during the 1940s and 1950s and has maintained a U.S. Army base and missile test range at Kwajalein atoll since 1964.

In the mid-1980s, Micronesia and the Marshall Islands chose to become sovereign states. Micronesia and the Marshall Islands entered into a joint Compact of Free Association with the U.S. to ensure self-government for the new island nations, establish the special political relationship between the U.S. and the two Pacific nations, assist them in their economic

development towards self-sufficiency, and secure certain national security rights for all three nations. The Compact was implemented by Public Law 99-239 on January 14, 1986.

The original Compact (among other things):

- obligated the U.S. to defend Micronesia and the Marshall Islands;
- gave the U.S. the right of “strategic denial” (i.e. the right to prevent access to the islands and their territorial waters by the militaries of other countries);
- gave the U.S. a “defense veto” (the right to veto Micronesia or Marshall Islands actions that the U.S. deems incompatible with its defense responsibilities, as well as a two-year extension during negotiations for a future veto);
- secured U.S. rights to the Kwajalein missile testing facility until 2016;
- provided for 15 years of direct U.S. financial payments to Micronesia and the Marshall Islands (as well as a two-year extension during negotiations for future assistance);
- authorized the island nations to receive various forms of program assistance and services from U.S. federal agencies;
- allowed Micronesian and Marshall Islands citizens to live, work, and study in the U.S. as resident aliens without passports or visas; and
- included a full and final settlement of all compensation claims regarding U.S. nuclear tests in the Marshall Islands, but also allowed the Marshall Islands to petition Congress for additional compensation on the basis of “changed circumstances” (such a petition was submitted in September 2000 and is currently under review by various federal agencies).

**Summary of Resolution:** H.J.Res. 63 would reauthorize and implement the separate Compacts of Free Association that the United States recently renegotiated and finalized with the Federated States of Micronesia and the Republic of the Marshall Islands. Certain defense and economic portions of the existing Compact are set to expire at the end of this month.

Overall, H.J. Res. 63, by implementing the new Compacts, would: (1) extend U.S. financial and program assistance to those two nations, yet restructure the way such assistance is provided in order to increase fiscal accountability and economic planning; (2) aim toward the end of U.S. grant assistance in 2023 by capitalizing a U.S.-managed trust fund for each nation; (3) preserve the U.S. “defense veto;” (4) extend U.S. access to the Kwajalein atoll missile testing range on the Marshall Islands; and (5) sharply tighten the unique U.S. immigration status enjoyed by Micronesian and Marshall Island citizens, in order to address concerns of U.S. homeland security.

Some of the economic improvements in the new Compacts, as compared to the previous Compact, are as follows:

- Instead of direct cash transfers from the U.S., funds under the new Compacts would be disbursed as sector grants targeted to priority areas such as health, education, and infrastructure.
- A Joint Economic Management Committee would be established in each country (with the majority of committee-members appointed by the U.S.) to increase financial reporting and planning requirements.

- The U.S. would be allowed to withhold funds if either country fails to comply with grant conditions or to cooperate in misuse-of-funds investigations.

The new Compacts would provide for annual grant assistance over the 20-year period from 2004 to 2023, with Micronesia receiving about \$92 million per year and the Marshall Islands receiving about \$57 million (\$42 million in Compact funds plus \$15 million for Kwajalein compensation). H.J. Res. 63 also would include \$15 million per year (through FY2023) in “Compact impact” funding to be apportioned among U.S. jurisdictions (such as Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands) that bear certain health and social services costs associated with the Compacts.

The new Compact with the Marshall Islands would extend U.S. military access to Kwajalein from the current expiration date of 2016 to 2066 (with an option to extend for an additional 20 years to 2086). Annual compensation for Kwajalein use would increase from \$11.3 million to \$15 million through 2013, and then to \$18 million beginning in 2014.

Some of the changes to immigration regulations in the new Compacts, as compared to the previous Compact, are as follows:

- Micronesian and Marshall Islands citizens would now have to have a valid passport to be admitted to the U.S.
- Naturalized citizens of the two island nations would no longer have special immigration status.
- Children traveling from those countries to the U.S. for adoption would no longer have special immigration status.
- The U.S. Attorney General would be directed to promulgate regulations that might condition the admission of Micronesian and Marshall Islands citizens into the U.S.

**Committee Action:** On June 18, 2003, the Asia and Pacific Subcommittee held a hearing on the new Compacts, at which several Administration officials testified. On July 18<sup>th</sup>, the Subcommittee marked up and forwarded the resolution to the full International Relations Committee by voice vote. On July 23<sup>rd</sup>, the full Committee marked up and reported the resolution to the full House by voice vote.

On September 4, 2003, the Resources Committee marked up and reported the resolution to the full House by voice vote. On September 10, 2003, the Judiciary Committee marked up and reported the resolution to the full House by voice vote.

**Administration Position:** At the subcommittee hearing referenced above, representatives of the State Department, the General Accounting Office (GAO), and the Interior Department testified in favor of reauthorizing the Compacts. To read the testimony from the:

- State Department, visit this website:  
[http://wwwa.house.gov/international\\_relations/108/sho0618.htm](http://wwwa.house.gov/international_relations/108/sho0618.htm)
- GAO, visit this website:  
[http://wwwa.house.gov/international\\_relations/108/wes0618.pdf](http://wwwa.house.gov/international_relations/108/wes0618.pdf)
- Interior Department, visit this website:

[http://wwwa.house.gov/international\\_relations/108/coh0618.htm](http://wwwa.house.gov/international_relations/108/coh0618.htm)

*(Note: The link to the GAO testimony contains many detailed tables and charts regarding the financial implications of the new Compacts, as compared to the existing Compact.)*

**Cost to Taxpayers:** CBO estimates that H.J.Res. 63 would increase mandatory spending by \$11 million in FY2004 over the current baseline and by \$77 million during the FY2004-FY2008 period (over the current baseline). CBO's baseline assumed that the Compacts would be reauthorized. Total baseline mandatory spending is currently \$156 million a year. Additionally, CBO estimates that this joint resolution would authorize appropriations of \$60 million in FY2004 and \$312 million during the FY2004-FY2008 period.

**Does the Bill Create New Federal Programs or Rules?:** For the most part, no. The resolution would reauthorize the existing relationships among the United States, Micronesia, and the Marshall Islands. However, the new Compacts would establish a U.S.-managed trust-fund for each nation, make adjustment to existing funding methods, and tighten the immigration rules among the countries.

**Constitutional Authority:** The International Relations Committee, in House Report 108-262 Part I, cites constitutional authority in Article I, Section 8 but does not cite a specific clause of authority. The Resources Committee, in House Report 108-262 Part II, cites constitutional authority in Article I, Section 8 but does not cite a specific clause of authority. The Judiciary Committee, in House Report 108-262 Part III, cites constitutional authority in Article I, Section 8 (but does not cite a specific clause of authority) and in Article III, Section 1 (establishment of federal courts and payment of federal judges).

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## **H.R. 2359—Basic Pilot Extension Act of 2003 (Calvert)**

**Order of Business:** The bill is scheduled for consideration on Tuesday, October 28<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 2359 would make several changes to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). IIRIRA authorized, among other things, a basic pilot program under which employers in certain states could voluntarily participate to verify employment eligibility of prospective employees against INS (now the Bureau for Citizenship and Immigration Services, BCIS) and Social Security Administration data. H.R. 2359:

- Extends the authorization for the basic pilot program by five years to 2008. The program was originally authorized in 1996 for 4 years, but was extended to 6 years (to November 2003) by H.R. 3030 in the 107<sup>th</sup> Congress (P.L. 107-128). H.R. 3030 passed the House by voice vote.
- Allows BCIS to use the pilot program to respond to inquiries by other federal, state, or local agencies.

- Expands the pilot program from the current-law minimum of five of the seven states with the highest estimated population of illegal aliens to any employer regardless of state. Currently employers in California, Florida, Illinois, Texas, Nebraska, and New York participate in the program. While the program is expanded to employers nationwide under H.R. 2359, it remains voluntary.
- Requires the Secretary of Homeland Security to post the participants (employers) in the basic pilot program on the Department of Homeland Security's website.

**Additional Background:** As mandated by IIRIRA, a study was conducted of the basic pilot program, with a report issued in 2002. Below are selected quotes from this report, which can be found in its entirety at

<http://www.immigration.gov/graphics/aboutus/repstudies/piloteval/pilotevalcomplete.htm>.

“In sum, the Basic Pilot program appears to reduce unauthorized employment that arises when employees present counterfeit or altered documents containing fictitious information. However, it does not assist employers in identifying cases of identity fraud. The assistance of the Basic Pilot program to employers is, therefore, affected by the relative frequency of counterfeit fraud versus identity fraud.”

*“The evaluation team recommends against a major expansion of the program. Although many employers found value in the Basic Pilot program and felt more confident in their ability to identify unauthorized workers, the program is problematic in its current form. The system relies on INS databases that are not sufficiently up-to-date or accurate enough to allow a cost-effective automated employment verification system. Furthermore, the data inaccuracies exacerbate the problems that arise when employers deviate from Basic Pilot procedures by prescreening job applicants, not informing employees of a tentative nonconfirmation, and taking inadequate security precautions.”*

Expanding the voluntary program nationwide “should have little short-term effect on illegal immigration, but will have more effect as program grows.”

**Committee Action:** H.R. 2359 was referred to the Committee on the Judiciary the Committee on Education and the Workforce on June 5, 2003. The Judiciary Committee approved the bill on September 24 by a vote of 18-8 (the only Republican “no” vote was Representative Chabot). The Education and the Workforce Committee discharged the bill on October 7<sup>th</sup>.

**Outside Organizations:** The U.S. Chamber of Commerce and the Free Congress Foundation supports H.R. 2359.

**Cost to Taxpayers:** According to the Congressional Budget Office, H.R. 2359 will cost \$2 million a year over the fiscal year 2004-2008 period. Currently, the program costs \$600,000, according to the Bureau of Citizenship and Immigration Services.

**Does the Bill Create New Federal Programs or Rules?:** The bill extends a pilot program, set to expire next month, for an additional five years.

**Constitutional Authority:** The Judiciary Committee, in House Report 108-304, cites Article I, Section 8, but does not cite a specific clause.

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**H.Res. 377 -- Providing for recommittal of the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Diaz-Balart, Lincoln)**

**Order of Business:** The resolution, which was reported by the Rules Committee and may be called up by that Committee at any time, is expected to be considered on Tuesday, October 28, 2003.

**Summary:** Recommits the Conference Report to the Committee on Conference, which will permit the Conferees to make changes to the Conference Report. The motion does not include any instruction to the Conferees.

The Conference Report (H.Rept. 108-240) was filed on July 25 of this year.

The major item of controversy in the Conference Report has been a provision that limits, but does not completely eliminate, the President's authority under existing law to contract out some air traffic control services. For additional information on this issue see the RSC Policy Brief at <http://www.house.gov/burton/RSC/AirTrafficPrivatization.pdf>.

**Cost to Taxpayers:** None.

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**Markey Motion to Instruct Conferees on H.R. 6—the Energy Policy Act of 2003**

**Order of Business:** On Monday, October 20, 2003, Rep. Edward Markey (D-MA) notified the House of his intention to offer a motion to instruct conferees on H.R. 6—the Energy Policy Act of 2003. The recorded vote requested has been rolled over from last week.

**Text of Motion:** The text of the Markey motion is as follows:

Mr. **MARKEY** moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to insist upon the provisions contained in--

- (1) section 14011 of the House bill relating to secure transfer of nuclear materials;
- (2) section 14012(d) of the House bill relating to nuclear facility threats, directing the Nuclear Regulatory Commission to issue regulations, including changes to the design

basis threat, to ensure that nuclear facilities licensed by Commission address the threat of a terrorist attack against such facilities; and

(3) section 14013 of the House bill requiring the Nuclear Regulatory Commission, before entering into any agreement of indemnification with respect to a utilization facility under section 170 of the Atomic Energy Act of 1954, to consult with the Assistant to the President for Homeland Security (or any successor official) with respect to that facility concerning whether the location of the facility and the design of that type of facility ensures that the facility provides for the adequate protection of public health and safety if subject to a terrorist attack, and that the Nuclear Regulatory Commission also consult with the Secretary of Homeland Security before issuing a license or a license renewal for a sensitive nuclear facility concerning the emergency evacuation plan for the communities living near the sensitive nuclear facility.

To view the RSC Legislative Bulletin on H.R. 6, as it was considered in the House, visit this webpage: <http://www.house.gov/burton/RSC/LB41003.pdf>

### **Additional Information:**

#### **Rep. Markey distributed a Dear Colleague on October 21 supporting his motion:**

His Dear Colleague says, “Despite the President's warnings about the terrorist's interest in targeting nuclear power plants in America, the Republican energy conferees have now decided to weaken nuclear security legislation previously adopted by the House as part of H.R. 6, the energy bill.” Rep. Markey continues, “The House bill required the NRC, within 360 days of the bill's enactment, to “issue regulations, including changes to the design basis threat, to ensure that licensees address the threats” of a terrorist attack against a nuclear power plant in the United States. The Republican conferees have now weakened this provision so that it no longer mandates a new NRC rulemaking, but instead merely authorizes the NRC “to make such revisions to the design basis threats promulgated before the date of enactment of this section as the Commission deems appropriate based on the summary and classification report.” This is an entirely discretionary authority, with no deadline, and it would allow the NRC to deem the weak and inadequate “interim orders” that it has already adopted since the September 11<sup>th</sup> attacks to be sufficient and take no further action. Regarding consultation with Homeland Security regarding nuclear security risks, Rep. Markey states, “The Republican conferees have de-linked the consultation requirement from Price-Anderson liability indemnification and eliminated the requirement for consultation regarding adequacy of emergency evacuation plans.” And finally, regarding Nuclear materials transportation security Rep. Markey writes, “The latest Republican conference report draft, in contrast, limits the NRC's regulations to the security of imports or exports of nuclear materials - failing to cover the transportation of these materials within the country.”

#### **The Nuclear Energy Institute distributed information opposing the Markey Motion to Instruct:**

**“NEI urges that the Markey Motion to Instruct be defeated as it may hinder or detract from security improvements currently being made at nuclear power plants.**

“Section 14012 of H.R. 6 dates back to late 2001 when Congressman Markey joined with Chairman Tauzin and Mr. Dingell in successfully offering an amendment to the Price-Anderson legislation that was then voted out of committee. It directs the President, in consultation with the NRC and other appropriate agencies, to study a list of threats and to classify them as being either

public or private responsibility. Subsection (d), the subject of the motion, directs the NRC to "issue regulations, including changes to the design basis threat" not later than 270 days after completion of the study.

“Subsection 14012 has been included in the energy bill conference report as Section 661. Subsection (d) has been modified and now allows the NRC to "by regulation make such changes to the design basis threats promulgated before the date of enactment of this section as the Commission deems appropriate. . . ." NEI agrees that the NRC should be provided discretionary authority as is included in the conference report. The design basis threat has already been significantly changed twice since September 11, 2001. These changes have required both staffing and physical changes to our plants. Requiring yet another change to the DBT will add uncertainty to our regulations and will most likely delay improvements that are currently being accepted. As such, the Markey motion will most likely hinder industry's and the NRC's actions to improve security.

“Section 14011 of H.R. 6 also dates back to the same Commerce Committee actions in late 2001 and has followed the same path as Section 14011. It requires the NRC to require a manifest and background checks of drivers when nuclear materials are transported. The final version of this section also represents a compromise between Chairman Tauzin, Mr. Dingell and Mr. Markey.

“Section 14011 has been included in the energy bill conference report as Section 666. It has been modified to apply only to materials that are "transferred or received" in the U.S. pursuant to "an import or export license. . . ." NEI prefers the version as included in the conference report. Initial drafts of this section were overly broad in that they required manifests and background checks for the transportation of all types of radioactive materials, including materials that pose little or no risk to public health and safety. Although the section was modified to allow the NRC to exempt by regulation certain materials, the section remained overly broad. The section will have little, if any, impact on the transfer of high-level waste that is already highly regulated.

“Section 14013 is a relatively new provision, sponsored by Congressman Markey, added this year during consideration of H.R. 6. It requires the NRC before issuing an agreement of indemnification to consult with the Department of Homeland Security concerning the location of a proposed facility and the design of that type of facility to ensure that the facility provides for adequate protection of public health and safety if subject to a terrorist attack. In addition, the section required the NRC to consult with the DHS regarding the emergency evacuation plan for communities near sensitive nuclear facilities prior to issuing a license of license renewal.

“Section 14013 has been included in the energy bill conference report as Section 667. It has, however, been modified to require the NRC to consult with the DHS prior to issuing a license or license renewal regarding the location and design of the facility to ensure that the facility provides for adequate protection of public health and safety if subject to a terrorist attack. NEI does not support either the original or modified version of this section. As FEMA is now part of DHS, the NRC must work closely with and consult with that Department regarding emergency response plans. It is, however, the responsibility of the NRC to determine if the design of nuclear power plants adequately protect public health and safety, not the other way around. As a result of these objections, NEI has urged the conferees to reject or modify Section 667 as was included in the conference report” (formatting in original).

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

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### **Brown (OH) Motion to Instruct Conferees on H.R. 1—Medicare Prescription Drug Modernization Act of 2003**

**Order of Business:** On Tuesday, October 21<sup>st</sup>, 2003, Rep. Sherrod Brown (D-OH) offered a motion to instruct conferees on H.R. 1, the Medicare Prescription Drug Modernization Act of 2003. Although the noes prevailed on voice vote, Rep. Brown asked for a recorded vote, which was postponed until today.

**Summary of Motion:** The motion directs the House conferees to reject subtitle C of title II of the House bill. This section provides for competition in 2010 between privately run Medicare plans and traditional Medicare fee-for service.

More information on the 2010 competition provisions can be found here:

<http://www.house.gov/burton/RSC/MedicareHR1Summary03.pdf>

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

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### **Woolsey Motion to Instruct Conferees on H.R. 1308—the All-American Tax Relief Act**

**Order of Business:** On Tuesday, October 21, 2003, Rep. Lynn Woolsey (D-CA) offered a motion to instruct conferees on H.R. 1308—the All-American Tax Relief Act. Although the noes prevailed on voice vote, Rep. Woolsey asked for a recorded vote, which was postponed until today.

**Text of Motion:** The text of the Woolsey motion is identical to the Democrat motions offered on this legislation over the last several months, as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides immediate payments to taxpayers receiving additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.
2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of

military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of astronauts who died in the *Columbia* disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees, and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

**Additional Background:** Substantively identical Democrat motions to instruct failed on numerous occasions recently:

DeLauro Motion, July 16<sup>th</sup>: 206-220

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=370>

Michaud Motion, July 17<sup>th</sup>: 202-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=390>

Bell Motion, July 18<sup>th</sup>: 188-201

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=396>

Van Hollen Motion, July 21<sup>st</sup>: 193-212

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=398>

Ross Motion, July 25<sup>th</sup>: 202-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=446>

Bishop (NY) Motion, July 25<sup>th</sup>: 206-216

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=447>

Solis Motion, July 25<sup>th</sup>: 202-221

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=449>

Cooper Motion, September 5<sup>th</sup>: 186-210

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=477>

Ruppersberger Motion, September 10<sup>th</sup>: 206-213

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=493>

Davis (TN) Motion, September 10<sup>th</sup>: 195-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=501>

Ryan (OH) Motion, September 23<sup>rd</sup>: 199-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=509>

Pallone Motion, September 30<sup>th</sup>: 202-207

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=525>

Davis (AL) Motion, October 1<sup>st</sup>: 207-219

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=529>

Crowley Motion, October 15<sup>th</sup>: 203-204

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=541>

To view the RSC Legislative Bulletin on H.R. 1308, as it was considered in the House, visit this webpage: <http://www.house.gov/burton/RSC/LB61203A.pdf>

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost or revenue effects of the underlying legislation.

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